TAB 7

Ishop Affidavit

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ABIGAIL NOEL FISHER, and	'
RACHEL MULTER MICHALEWICZ,	'
Plaintiffs,	'
	'
v.	' **CIVIL ACTION NO. 1:08-CV-00263-SS**
	'
UNIVERSITY OF TEXAS AT AUSTIN,	'
et al.,	'
Defendants.	'

AFFIDAVIT OF KEDRA B. ISHOP

THE STATE OF TEXAS	§
	§
COUNTY OF TRAVIS	§

BEFORE ME, the undersigned authority, personally appeared KEDRA B. ISHOP, who, being by me duly sworn, upon her oath stated:

1.   My name is Kedra B. Ishop. I am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts stated in it. I make this affidavit in support of Defendants' Motion for Summary Judgment and in opposition to Plaintiffs' Motion for Summary Judgment. I have previously submitted an affidavit in this matter in connection with Plaintiffs' application for a Preliminary Injunction. To the extent that any statistics in this affidavit conflict with statistics in that prior affidavit or provided during my deposition, it is because, at those times, the University of Texas at Austin did not have full information on the total applicants, admitted applicants, and enrolled students; that information was not finalized until late October 2008.

2.   I have been employed in the Office of Admissions at the University since 1998 and have held the position of Associate Director of Admissions since 2003. As part of my job duties I participate directly in all facets of the admissions process at the University. In particular I was very involved in all aspects of the 2008 admissions process, which included the applications of Ms. Fisher and Ms. Michalewicz, who are plaintiffs in a suit filed against the University of Texas at Austin. I have reviewed the admissions files of both Ms. Fisher and Ms. Michalewicz. Ms. Fisher and Ms. Michalewicz applied for admission as residents of Texas who were not eligible for automatic admission under House Bill 588 ("HB 588," also known as the "Top Ten Percent Law"). They did not apply to any special programs within the university, such as Plan II honors or majors in Fine Arts that have a portfolio requirement.

Page 1 of 6

3.   The review of admissions applications involves the calculation of an academic index ("AI") which is derived from the calculation of a predicated grade point average ("PGPA") (produced via a multiple regression equation) and a curriculum-based bonus point ("units plus"). SAT/ACT scores and class rank are used to determine an applicant's PGPA. If the applicant took more than UT Austin's minimum high school coursework requirements in at least two of three designated subject areas, a bonus of 0.1 points ("units plus") is added to the PGPA to produce the student's AI. The maximum AI that a student can obtain under this system is a 4.1, which correlates to an AI on the admission decision matrix (explained below in paragraph 14) of 410.

4.   The Admissions office also determines a Personal Achievement Index ("PAI") for each applicant. The PAI is UT's holistic evaluation of an applicant. Applicants are required to submit two essays. A true and correct copy of a list of UT Austin's essay topics for the 2008 freshman class is attached as Exhibit A. Applicants may choose to submit an optional third essay detailing special circumstances; a resume or detailed listing of extracurricular activities, honors, awards, work experience and service; and letters of recommendation. In addition to encompassing the two required essays, the PAI reflects UT's evaluation of the applicant's demonstrated leadership qualities, extracurricular activities, honors and awards, work experience, community service, and special personal circumstances. The special personal circumstances considered include: the socioeconomic status of the applicant's family and school, whether the applicant is from a single-parent home, whether languages other than English are spoken at the applicant's home, the applicant's family responsibilities, and (starting with the fall class of 2005) the applicant's race. Other than the scores each of the two required essay receives, no numerical value is ever assigned to any of the individual components that make up the PAI. Further, because race is a factor considered in the context of each applicant's entire file, it may be a beneficial factor for minorities or non-minorities alike, depending on the applicant's unique circumstances. Applicants may also choose to answer questions or present information related to other special circumstances to be considered in the evaluation of their file.

5.   Each required essay is read and scored according to a scale of 1-6 by one of twenty-two specially trained essay readers, who read and score the essays based on the quality of the writing. Then, the entire application, including the required essays and any supplemental information provided by the applicant (i.e. letters of recommendation, the optional essay, and resume) is reviewed and assigned a "personal achievement score" (or "leadership score") on a scale of 1-6. Full files are read by one of twenty-three specifically trained PAI senior readers. From the three scores—the two essay scores and the personal achievement score—a PAI is computed. The personal achievement score is given slightly more weight than the essays in the calculation.

6.   The purpose of reading entire admissions files is to determine the PAI. The "whole file" readers are not making admissions decisions at this point of the review, but are simply assigning a PAI score. Nor is the file reader making a judgment regarding academic strength when determining the PAI, as that is accounted for in the applicant's AI.

7.   Undergraduate admissions decisions are made for 11 Colleges and Schools within the University. Three competitive pools exist: Texas residents, non-residents (that is, applicants residing within the United States but outside Texas), and foreign students. Admission decisions for Texas and non-resident applicants are made by the admissions office liaison to each college or school. Foreign admission decisions are made by admissions staff in the Graduate and International admissions office. Applicants are separated into these three pools and they compete only against others in that pool for admission. The vast majority of admitted Texas residents are offered admission based on either class rank or AI alone, without any consideration of the PAI. Although HB 588 requires admission only into UT Austin, and not necessarily into an applicant's preferred academic program, many schools and colleges within the University grant admission to every applicant who qualifies under the Top 10% Law and selects that school or college as his or her first choice of academic program.

8.   For six colleges/schools—Liberal Arts, Social Work, Nursing, Business, Communications, and Geosciences—admissions decisions are made at the college/school level. The AI/PAI requirements for entry into these academic programs are the same regardless of the major admitted to within the college/school.

9.   For three colleges/schools, admissions decisions are made for specific majors per our enrollment management principles. College of Natural Sciences admissions decisions are made for two groups: the Computer Science major and all other Natural Sciences majors. College of Education admissions decisions are made for kinesiology, special education, bilingual education, and general education. College of Engineering admissions decisions are made for architectural, aerospace, electrical and computer, chemical, civil, mechanical, and petroleum engineering.

10.   Decisions for the remaining two schools, the School of Fine Arts and the School of Architecture, are made within the Dean's offices of those schools and in consultation with the admissions office.

11.   The admissions process begins by establishing automatic admissions cut-off's for individual colleges and schools. Some academic programs could fill most of their admission slots based on the first choice preferences of Top 10% applicants alone, while others, such as the School of Business, would be oversubscribed based on that population alone. To address this, the University has established a policy that allows these Top 10% "impacted" programs to restrict the percentage of their class that is automatically admitted under HB 588. For admission to the 2008 freshman class, Business, Communications, Nursing, Kinesiology, and each major in Engineering restricted spaces offered automatically under HB 588 to no more than 75% of their program. Fine Arts and Architecture do not grant HB 588 automatic admission.

12.   The admissions office also establishes "A" group and "C" group parameters for some colleges/schools based solely on an applicant's AI, without consideration of an applicant's PAI. In 2008, five colleges/schools had "A" groups for the entering class of 2008: Natural Sciences (3.5 AI), Geosciences (3.6 AI), Liberal Arts (3.9 AI), Social Work (3.6 AI), and three programs in Education (Applied Learning & Development (3.6 AI); Special Education (3.4 AI)

Page 3 of 6

and Bilingual Education (3.4 AI)). "A" group applicants are those who have high AIs and who are offered admission based solely on their AI. The exceptional academic strength of these applicants determines their earlier (rolling) admission, allowing the admissions office to offer earlier admittance to these highly competitive students. "C" group applicants are those whose AI has typically rendered their admissions chances highly unlikely. All applicants with an AI of 2.599 and below are considered "C" group applicants. The file of each "C" group applicant is reviewed by a senior admissions reader, who will refer the applicant for a full file review if warranted from the contents of the file. If referred for a full file review, the review process is the same as the review of any other applicant. If not referred for full file review, the file is assigned scores of 3 (essay 1), 3 (essay 2), and 3 (personal achievement or leadership) which—in conjunction with the applicant's low AI score—effectively precludes admission. After all admissions offers based solely on academic performance (either pursuant to the Top 10% rule or due to the applicant's high AI) were made for the Fall 2008 freshmen class, only 841 available admissions slots (out of a possible 10,200) remained open for Texas Residents.

13.   Early on in each year's admissions process, UT Austin conducts training sessions for essay and full file readers, led by faculty member Brian Bremen, a recognized national expert in holistic reading. For the entering class of 2008, 45 readers participated in essay or full file review. The reading process began in mid-October 2007 and ended in the third week of February 2008. Four full months of reading were required to review 17,131 files.

14.   The process of admission into particular programs outside of the automatic admissions begins when the admissions office generates an initial AI/PAI matrix for each academic program. On each matrix, PAI scores are plotted on the vertical left axis ascending from 1 to 6 in whole-number increments; AI scores (which are first multiplied by a factor of 100 to derive a whole number ranging from 000 to 410) are plotted on the horizontal bottom axis, starting at the far left with 410 and descending in increments of 10. Thus, the cell that represents the highest combination of AI and PAI scores is located in the top left-hand corner of the matrix, and the lowest combination can be found in the bottom right-hand corner. All applicants with the same AI and PAI combination will be placed in the same cell on the matrix. Following the completion of file review, the admissions office liaisons for the three most "impacted" academic programs—Business, Communications, and Engineering—meet to begin the admission and "cascade" process. The number of applicants within each cell in the matrix guides the liaison making admissions decision as he/she decides where to establish the cut-off for admits and cascades. An example of a working document matrix is attached as Exhibit B. On that matrix, you can see where the liaison has drawn the "stair step" admit line at that point in time. When the line is drawn to tentatively establish the admitted cells, the remaining applicants (i.e., those located in the cells that fall below the admit line) are "cascaded" to the matrix for their second choice academic program, where the process begins again. Adding these "cascaded" applicants to a matrix will, for many programs, increase the total number of students that fall within one of the cells that had already been tentatively considered for admission. When that occurs, each liaison must manage program enrollment by adjusting the initial set of cells considered for admission to match the available number of admissions slots, again taking into consideration the desire to admit those applicants with the highest combination of AI and PAI scores. At the conclusion of this second round, each liaison makes a final determination of which cells to admit

to each academic program, and all applicants who fall within any of the cells above the line drawn on the matrix are accordingly deemed admitted. This "admit and cascade" process occurs for all academic programs until all applicants not admitted to their first- or second- choice academic program are cascaded to the matrix for Liberal Arts, undeclared major, the default, third-choice program for all applicants. When admissions decisions were made for the Fall 2008 semester, only 186 admissions slots remained available for Texas residents in the College of Liberal Arts, undeclared major, academic program after automatically admitting all Top 10% applicants and those applicants with a sufficiently high AI score. To fill these 186 remaining slots in the College of Liberal Arts, an AI/PAI matrix was created and populated with those Texas resident applicants who failed to gain admission to either their first- or second- choice academic programs. The admissions office then drew the stair-step admit line on this matrix to capture the number of applicants necessary to complete the fall entering class and offered these applicants admission as an undeclared major in the College of Liberal Arts.

15.   If a non-resident applicant is not admitted for their first- or second- choice academic program or into the Liberal Arts, undeclared major, the applicant is denied admission. Texas residents, however, are given further consideration. Specifically, UT Austin has developed a summer program (called the "Summer Freshman Class") that allows an additional group of Texas residents to be admitted to the University, provided that they are willing to begin their coursework early, during the summer months immediately preceding the beginning of the fall semester. If a resident applicant is not admitted but fell within a cell on the final Liberal Arts, undeclared major, matrix close to applicants who were admitted, the applicant's file is re-read by a senior reader. During this second read, the admissions officers are not bound by the applicant's AI/PAI scores. For admission into the 2008 freshman class, 3,029 applicants were granted a second read based on having AI and PAI scores just below those admitted for the fall semester under the third stage of the admissions process. Specifically, the applicants granted this second read were those with the highest combination of AI/PAI scores that remained on the AI/PAI matrix for the College of Liberal Arts, undeclared major, after all admissions decisions for fall 2008 were made. A true and correct copy of the "second read" matrix for the fall 2008 admission cycle (with the arrow pointing to that side of the stair-step line that was granted a second read) is attached as Exhibit C. Based on this second reading, the reader decides whether to admit the applicant to the fall semester (a rare occurrence), to the Summer Freshman Class, or to the Coordinated Admission Program ("CAP"). CAP allows students to transfer to the University of Texas at Austin after completing the CAP terms, including 30 approved credit hours their freshman year at a participating System campus and maintaining at least a 3.2 GPA. Of the 3,029 applicants granted a second read for fall 2008, approximately half were offered admission into the Summer Freshman Class program; the rest were offered admission to CAP. All Texas residents who apply to UT Austin by the application deadline are at least offered the option of participating in the CAP program, through which they can be admitted into the University of Texas at Austin.

16.   The admissions process for the entering class of 2008 was an unprecedented experience. At the point of the admissions process in which admissions decisions began to be made based on the AI/PAI matrices, 92% of the admissions spaces available for Texas residents had already been awarded to Top 10% applicants. More specifically, only 841 admission slots

Page 5 of 6

remained available University-wide for the fall semester after accounting for all Top 10% and 'A' group automatic admits.

17.   No admissions officer or anyone else at UT Austin monitors the racial or ethnic composition of the group of admitted students at any time during the admissions process in order to consider whether an applicant will be admitted.
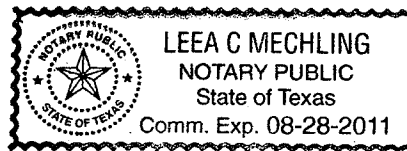
18.   As previously discussed, the impact of HB 588 automatic admission was significant for the entering class of 2008. Given the lack of space available in the fall freshman class due to the Top 10% Plan, it is accurate to say that, based on their high school class rank and test scores, neither Ms. Fisher nor Ms. Michalewicz could have gained admission through the fall review process. Ms. Fisher had a Liberal Arts AI of 3.1 and a Business AI of 3.1. Ms. Fisher's Liberal Arts AI of 3.1 reflects the sum of her Liberal Arts PGPA (3.093) plus the "units plus" bonus of 0.1 for exceeding UT Austin's minimum high school coursework requirements. Ms. Fisher's Business AI of 3.1 reflects the sum of her Business PGPA (3.038) plus the "units plus" bonus of 0.1. Ms. Michalewicz had a Liberal Arts AI of 3.3 and a Business AI of 3.2. Ms. Michalewicz's Liberal Arts AI of 3.3 reflects the sum of her Liberal Arts PGPA (3.234) plus the "units plus" bonus of 0.1 for exceeding UT Austin's minimum high school coursework requirements. Ms. Michalewicz's Business AI of 3.2 reflects the sum of her Business PGPA (3.123) plus the "units plus" bonus of 0.1. These AI's were not high enough to gain admission to either Business or Liberal Arts for fall 2008. Because of the lack of space beyond Top 10% automatic admits for the fall freshman class, all applicants who cascaded to the Liberal Arts, undeclared major, matrix were only eligible for Summer Freshman Class or CAP admission, unless their AI exceeded 3.5. Consequently, even if Ms. Fisher and Ms. Michalewicz had each received a "perfect" PAI score of 6, neither would have received an offer of admission to the freshman entering class of fall 2008.

Kedra B. Ishop
Kedra B. Ishop

SUBSCRIBED AND SWORN TO BEFORE ME on the __23rd__ day of February 2009, to certify which witness my hand and official seal.

Leea Mechling
Notary Public in and for the State of Texas

> **LEEA C MECHLING**
> NOTARY PUBLIC
> State of Texas
> Comm. Exp. 08-28-2011

Kedra B. Ishop Affidavit

Exhibit A

Topics and tips for writing your # ADMISSION ESSAYS

To be complete, your application must include at least two essays. Most students should submit personal essays A and B. However, if you're applying to an honors program, a major with special requirements, or for scholarships, you may need to submit additional or different essays.

Essay Topics

A

Personal Essay 1 (if applying for summer/fall 2008 & beyond)

Write an essay in which you tell us about someone who has made an impact on your life and explain how and why this person is important to you.

Submit online

B

Personal Essay 2 (if applying for summer/fall 2008 & beyond)

Choose an issue of importance to you—the issue could be personal, school related, local, political, or international in scope—and write an essay in which you explain the significance of that issue to yourself, your family, your community, or your generation.

Submit online

D

Submit this essay in place of Essay A when applying for admission to architecture, art history, pre-design, studio art, or visual art studies/art education.

Major-specific essay (if applying for summer/fall 2008 & beyond)

Personal interaction with objects, images and spaces can be so powerful as to change the way one thinks about particular issues or topics. For your intended area of study (architecture, art history, design, studio art, visual art studies/art education), describe an experience where instruction in that area or your personal interaction with an object, image or space effected this type of change in your thinking. What did you do to act upon your new thinking and what have you done to prepare yourself for further study in this area?

Submit online

Optional Essay

In addition to the two required essays, some applicants choose to submit a response to Essay C. Essay C is optional and cannot be submitted in place of a required essay. Students submitting Essay C do so in order to submit additional information to the university about special circumstances.

Special Circumstances: Essay C

There may be personal information that you want considered as part of your admissions application. Write an essay describing that information. You might include exceptional hardships, challenges, or opportunities that have shaped or impacted your abilities or academic credentials, personal responsibilities, exceptional achievements or talents, educational goals, or ways in which you might contribute to an institution committed to creating a diverse learning environment.

Kedra B. Ishop Affidavit

Exhibit B

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  AI
400+ 390 380 370 360 350 340 330 320 310 300 290 280 270 260 250 240 <240
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400+	390	380	370	360	350	340	330	320	310	300	290	280	270	260	250	240	<240
			1			1	3	4	1	1	3	2	1				
					1	1	2	4	5	8	4	5	4	3			
						2	4							1			
										1							

(handwritten annotations)

90.16

60   3.0
500 3.1
400 3.3
300 3.4
200 3.3

37

(handwritten note on left margin)

Kedra B. Ishop Affidavit

Exhibit C

AI

	400+	390	380	370	360	350	340	330	320	310	300	290	280	270	260	250	240	<240
31						3	1	6	4	5	6	3	2	1		*500*		
52?		3	14	27	35	48	50	60	64	55	59	39	35	34				
1588			9	32	50	100	134	250	288	367	358	333	283	214	160			
800			11	25	37	93	144	196	294	372	400	403	365	340	297			
83			1	2	6	30	44	78	133	167	175	186	188	199	143			
4						2	2	6	14	12	21	20	36	24	44			
								1	2	1	1	3	3		4			

3029

Adversity
Hold's
Easy #'s

Rereads
No admits

3.3   100
3.1   300
2.6   500